

REMARKS

Claims 2-16 and new claim 19 are the only claims currently active in this application. Claims 1, 17 and 18 were previously canceled.

Responding to the Office Action's rejection of claims 2-16 based on obviousness-type double patenting (Office Action at page 4), Applicants respectfully traverse the rejection. However, for purposes of expediting examination and without waiver of this objection, a Terminal Disclaimer with respect to the identified co-pending application is filed concurrently herewith. Applicants therefore respectfully request that the obviousness-type double patenting rejection be withdrawn.

The Office Action rejects claims 2-16 under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 4,977,136 ("Fujiwara").

Applicants respectfully traverse the rejections and, respectfully request that the Examiner, based on Applicant's claims compared against the teachings and disclosure of the cited reference, reconsider and withdraw the rejections. Applicants respectfully submit, for the reasons presented below, that the differences between the claims, viewed as a whole, and the cited references shows that the claims are patentable over the reference within the meaning of 35 U.S.C. § § 102, 103.

Claim 2

Applicants' claim 2 invention includes "providing an image data for a two dimensional image," and "providing a three-dimensional information identified by three-dimensional characteristics of objects represented in" the "two-dimensional image." Claim 2, currently amended, at lines 2-5. Applicants' claim 2 invention further "record[s] an image on an image recording surface based on" the "image data" and:

form[s] on said image recording surface a transparent coat layer, covering objects in the image, having asperities with a form based on said three-dimensional information

Claim 2, currently amended, at lines 6-10.

An example method within the meaning of claim 2 is disclosed in Applicants' specification at, for example, page 26, line 15, through page 37, line 1; and at FIG. 3. As described, when the recorded image is viewed through the claimed "transparent coat layer covering objects in the image," because it is formed to have "asperities with a form based on ... [the claim's provided] "three-dimensional information," objects in the image appear as having a three-dimensional depth or texture. See, e.g., Specification at page 13, lines 7-13 (first full paragraph on the page); and at page 60, lines 1-23 (second full paragraph on the page).

Applicants respectfully submit that Fujiwara does not teach, disclose or suggest anything of, or toward, the claim 2 elements of: (i) "providing a three-dimensional information"; or (ii) "forming a transparent layer having asperities ... based on said three-dimensional information."

Fujiwara describes a cover film on a sublimated dye printing paper. Fujiwara discloses nothing of any image information associated with the cover film. The disclosed function of Fujiwara's cover film is reducing a migration of the sublimated dye, e.g., from heat, humidity and UV light. See, e.g., Fujiwara at column 2, lines 16-20; and at column 5, line 26, through column 6, line 48.

Fujiwara discloses nothing, explicitly or inherently, of any information within the broadest reasonable meaning of "three-dimensional characteristics of objects represented in [a] two-dimensional image." Fujiwara's film is formed independent of any image information; it is simply a film that is formed and pressed onto a color print. See, e.g., Fujiwara at column 3, lines 19-22, lines 37-41, lines 57-60; column 4, lines 11-15, lines 31-35, line 54-58; and column 5, lines 1-5.

Applicants respectfully submit that for at least two reasons Fujiwara lacks the claim 2 element of "forming a transparent layer."

First, the claim 2 element of "forming a transparent layer," recites the "forming" as based on the "three-dimensional information." Claim 2,

currently amended, at lines 9-10. Fujiwara does not disclose anything of, or equivalent to, providing such a “three-dimensional information.”

Second Fujiwara does not disclose, teach or suggest anything of, or equivalent to, or toward, any film having “asperities,” for any purpose or for any function, much less “asperities with a form based on said three-dimensional information” as required by claim 2. Fujiwara describes a cover film on a sublimated dye printing paper. The only disclosed function of the cover film is reducing a migration of the sublimated dye, e.g., from heat, humidity and UV light. Fujiwara discloses nothing meeting any supportable “broadest reasonable meaning,” as defined in MPEP § 2110.01, of the claim 2 limitation of “asperities.”

Applicants respectfully submit that the broadest reasonable meaning, i.e., the plain meaning of “asperities” that a person of ordinary skill in the art would understand is: surface roughness or irregularities over an area sufficient to have a substantive, visible optical effect on the image seen through those “asperities.” See, e.g., Specification, at page 5, second full paragraph; page 6, first and second full paragraph; page 19, second full paragraph; page 21, second full paragraph; FIG. 1, item “14a”; FIG. 3, item “14b”.

Fujiwara discloses nothing even proximal to this or any other reasonable meaning for “asperities.” Fujiwara’s only disclosure of surface characteristics is its Fig.1, showing all surfaces of layers 1, 2 and 3 to be smooth, without surface irregularity.

Applicants respectfully submit that the Office Action’s statement (at page 3, first full paragraph) that “asperities ... [are] inherent” to Fujiwara’s protective cover is not supported by Fujiwara. Applicants further submit that if “asperities” were indeed “inherent” to Fujiwara, that undesired or unspecified visible optical effects would result from the cover film, and that this is clearly contrary to all of Fujiwara’s stated purposes or objectives.

Applicants respectfully submit that the Office Action's statement that an optical cover "would take the shape of" the coated "material," conforming to "ridges and contours" is a speculation not supported by any disclosure in Fujiwara. Applicants further submit that the Office Action's statement of a speculated phenomenon is beyond the broadest reasonable meaning of "asperities" - because such "ridges and contours," even if they were to occur, are not a roughness or surface irregularities "covering an area of an image." Claim 2, currently amended, at line 9. Further, such "ridges and contours," if they were to occur, are not "asperities with a form based on said three-dimensional information." Claim 2, currently amended, at lines 9-10.

The Office Action states that: "to utilize a transparent coat layer with asperities would have obvious to change the refractive index of the image depending on the desired result." Office Action at page 3.

Applicants respectfully respond that the Office Action's position, to the extent it can be understood by Applicants, appears to be that all methods employing any configuration of a layer, having a different refraction characteristic than an image, to obtain a desired result, are obvious. Applicants respectfully submit that such a position is inconsistent with proper patent examination standards for identifying the scope and content of the prior art, and for identifying the differences between the prior art and the claimed invention.

Applicants respectfully submit, based on the reasons above, that Fujiwara clearly lacks anything within the broadest reasonable meaning of either of the claim 2 elements of: (i) "providing a three-dimensional information, and (ii) "forming ... a transparent coat layer ... having asperities based on said three-dimensional information." Claim 2, currently amended, at lines 3-5 and at lines 8-10.

Applicants respectfully submit that, for the reasons above, that Fujiwara cannot anticipate or render obvious Applicants' claim 2, or any of its dependent claims 3-6 and 19.

Claim 7

Responding to the rejection of claim 12, Applicants respectfully submit that Fujiwara does not support the rejection for anticipation, or the rejection for obviousness, because reading Fujiwara in its entirety shows that it lacks each of the following four claim elements and limitations, and of their combination:

- (i) "forming a transparent coat layer, having asperities," claim 7, currently amended, at line 4;
- (ii) forming the transparent layer and asperities "on a designated area of said image recording," *id.*, at lines 4-5;
- (iii) forming the transparent layer and asperities such that "the asperities are formed using shape data ... describing the asperities," *id.*, at lines 5-6; and
- (iv) forming the transparent layer having asperities based on shape data, "wherein the shape data corresponds to the textures of materials of objects forming said image." *id.*, at lines 6-7.

As Applicants have stated above, and as reading if Fujiwara shows, Fujiwara discloses a cover film on a sublimated dye printing paper, for reducing a migration of the sublimated dye, e.g., from heat, humidity and UV light. See, e.g., Fujiwara at column 2, lines 16-20; and at column 5, line 26, through column 6, line 48.

Fujiwara does not disclose, teach or suggest the cover film as having any structural feature within the broadest reasonable meaning of "asperities."

Fujiwara does not disclose, teach or suggest forming a layer "on a designated area of said image recording"; Fujiwara discloses forming a protective layer and pressing it on a color print. *See, e.g.*, Fujiwara at column 3, lines 19-22, lines 37-41, lines 57-60; column 4, lines 11-15, lines 31-35, line 54-58; and column 5, lines 1-5.

Fujiwara does not disclose, teach or suggest forming asperities. Fujiwara's only disclosure of surface characteristics is its Fig.1, showing all surfaces of layers 1, 2 and 3 to be smooth, without surface irregularity.

Fujiwara does not disclose, teach or suggest anything of, or toward a "shape data." Fujiwara discloses forming a protective layer and pressing it on a color print.

Fujiwara does not disclose, teach or suggest anything of, equivalent to, or toward, a "shape data correspond[ing] to the textures of materials of objects forming said image." Fujiwara discloses forming a protective layer and pressing it on a color print. There protective layer is not shown as having "asperities," there is no teaching in Fujiwara of anything equivalent to a "shape data," and there is no teaching in Fujiwara of anything equivalent to a "data correspond[ing] to textures of materials of objects forming said image."

Applicants respectfully submit that, based on least the reasons of fact presented above, Fujiwara cannot anticipate or render obvious Applicants' claim 7, or any of its dependent claims 8-11.

Claim 12

Responding to the rejection of claim 12, Applicants respectfully submit that Fujiwara does not support the rejection for anticipation, or he rejection for obviousness, because reading Fujiwara in its entirety shows that it lacks each of the following claim 12 elements, and of their combination:

- (i) "analyzing ... to detect a density variation," and
- (ii) "forming ... a transparent coating layer having asperities

corresponding to the thus detected density variation.”

Claim 12, original, at lines 2-5 and 6-10.

Example methods within the meaning of claim 12 are described at, for example, Applicants' specification at, for example, page 70, line 10, through page 75, line 10; and at FIG. 10.

As stated above, Fujiwara discloses a cover film on a sublimated dye printing paper, for reducing a migration of the sublimated dye, e.g., from heat, humidity and UV light. *See, e.g.*, Fujiwara at column 2, lines 16-20; and at column 5, line 26, through column 6, line 48. That is all that Fujiwara discloses.

Fujiwara lacks the “analyzing” element of claim 12 because Fujiwara does not teach, disclose or suggest anything of, or toward, “analyzing a two-dimensional image to extract ... and detect density variation.” Fujiwara does not teach, disclose or suggest anything of analyzing any image, for any purpose or objective. Fujiwara certainly does not teach or disclose, explicitly or inherently, any act of detecting a density variation in an image.

Fujiwara lacks the “forming” element of claim 12 because Fujiwara does not teach, disclose or suggest anything of, or toward, “forming ... a transparent coating layer having asperities corresponding to the thus detected density variation.” Fujiwara does not disclose forming a transparent coating layer having “asperities” corresponding to any information, much less to a “detected density variation.”

Applicants respectfully submit that, based on at least the reasons of fact presented above, Fujiwara cannot anticipate or render obvious Applicants' claim 12.

Conclusion

In view of the foregoing, Applicants respectfully request that the application be reconsidered, that claims 2-16 and 19 be allowed, and that the application be passed to issue.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

Please charge the Terminal Disclaimer fee of \$110.00 to Attorneys' Deposit Account No. 50-2041 (Whitham, Curtis, Christofferson & Cook P.C.). Please charge additional fees (if any) for a provisional petition of extension of time, any deficiencies in fees, and credit any overpayment of fees for the petition or for entry of this amendment to Attorneys' Deposit Account No. 50-2041 (Whitham, Curtis, Christofferson & Cook P.C.).

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Laurence E. Stein', is written over the typed name.

Laurence E. Stein
Reg. No. 35,371

Whitham, Curtis, Christofferson & Cook, P.C.
11491 Sunset Hills Road, Suite 340
Reston, VA, 20190
Phone: 703-787-9400
Fax: 703-787-7557